

1 Neil A. Goteiner (State Bar No. 083524)  
 2 Dennis M. Cusack (State Bar No. 124988)  
 3 Carly O. Alameda (State Bar No. 244424)  
 4 Farella Braun & Martel LLP  
 5 235 Montgomery Street, 17th Floor  
 6 San Francisco, CA 94104  
 7 Telephone: (415) 954-4400  
 8 Facsimile: (415) 954-4480  
 9 E-mail: ngoteiner@fbm.com, dcusack@fbm.com,  
 10 calameda@fbm.com

11 Attorneys for Plaintiff  
 12 COUPONS, INC.

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

16 COUPONS, INC.,

17 Plaintiff,

18 vs.

19 JOHN STOTTLEMIRE, and DOES 1-10,

20 Defendants.

Case No. 5:07-CV-03457 HRL

**REPLY TO DEFENDANT'S OPPOSITION  
 TO MOTION TO DIRECT THE PARTIES  
 TO RETURN TO EARLY NEUTRAL  
 EVALUATION PURSUANT TO ADR L.R.  
 5-2, AND CIVIL L.R. 7.**

Date: January 27, 2009

Time: 10:00 a.m.

Courtroom: 2

Judge: Honorable Howard R. Lloyd

21 The Court has the power to order parties to an Early Neutral Evaluation session  
 22 irrespective of Stottlemire's opposition. ADR Local Rule 5-2. Coupons still believes that an  
 23 Early Neutral Evaluation session will aid the parties in evaluating their current legal positions and  
 24 reaching toward a creative solution. Although Stottlemire currently claims disinterest in  
 25 additional settlement assistance,<sup>1</sup> that is often the situation before successful ENE's. A neutral,

26 <sup>1</sup> One point in Stottlemire's opposition warrants response. He states that no such breach occurred,  
 27 and as support he cites out of context a statement of Coupons' counsel that, "Coupons is fine with  
 28 making everything public regarding the settlement." See Defendant's Opposition to Motion to  
 Direct the Parties to Return to Early Neutral Evaluation, p. ii, fn 1. Reading the entire email in  
 context makes clear that Coupons' counsel wrote this email to Stottlemire after Stottlemire's  
 dissemination to the public of false and misleading information boasting of his victory in the case,  
 and after Stottlemire threatened to make a motion for summary judgment to enforce the  
 settlement. Coupons' interest at that point was to set the public record straight in order to remedy  
 the breach and it had offered this solution to Stottlemire. Stottlemire rejected that solution;

1 third party evaluation of the parties' positions will provide guidance to the parties and may well  
2 save the Court's resources.

3 Coupons continues to believe that it is possible to repair the damage caused by  
4 Stottlemire's breach, short of taking this matter to judgment. Stottlemire's perspective may again  
5 change after a neutral evaluation. After all the time spent on this matter, the additional ENE time  
6 would be worth trying to work toward a creative solution.

7 Dated: January 13, 2009

FARELLA BRAUN & MARTEL LLP

8  
9 By: /s/  
Neil A. Goteiner

10 Attorneys for Plaintiff  
11 COUPONS, INC.  
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27 therefore, Coupons' counsel's email informed Stottlemire that given Stottlemire's tactics and his  
28 insistence on proceeding with his motion, Coupons too was fine with setting the record straight in  
the course of briefing that motion.

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